Supreme Court, U.S.
FILED
MAR 2 1985
ALEXANDER L. STEVAS
CLERK

NUMBER 84-1174

IN THE SUPREME COURT OF THE

UNITED STATES

OCTOBER TERM 1984

ESTHER C. MONZELLO

Petitioner

VS

AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA

Respondent

ON PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PETITIONER'S REPLY BRIEF

ESTHER C. MONZELLO

IN PROPRIA PERSONA

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22pp

Questions Presented For Review

The Questions Presented For Review are as stated in the "Petition For A Writ of Certiorari" - page 1 thru 13.

Parties To The Proceedings

Parties to the Proceedings are as stated in the "Petition For A Writ of Certiorari" - page 13.

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Opinions and Judgments Delivered In The Courts Below

Opinions and Judgments Delivered in the Courts Below are as stated in "Petition For A Writ of Certiorari" - pages 14 & 15.

Jurisdiction

On page 2 and 3 of Respondent's Brief in Opposition Respondent's remarks relative to jurisdiction are superfluous and irrelevant. The jurisdiction of this Court is invoked pursuant to 28 United States Code Section 1254(1) - page 15 of "Petition For A Writ of Certiorari". For the information of the Respondent the following is quoted: Jurisdiction to Review Decisions of Federal Courts - Courts of Appeals - 2.1/ Certiorari jurisdiction over courts of appeals - plenary nature. Congress has provided, in 28 U.S.C. Sec. 1254(1), that the Supreme Court may review cases in the

courts of appeals by a "writ of certiorari upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree." It is to be noted that the jurisdiction thus granted is of an extremely comprehensive nature. It extends to "any civil or criminal case" in the courts of appeals. There are no limitations as to the parties, the status of the case, or the amount in controversy. Nor are there any restrictions as to the matter at issue or the nature or form of the decision below.[1] And while various regulatory statutes make provision for review by the Court on certiorari to the courts of appeals of cases arising under those statutes such provisions merely reflect the unhampered scope of Sec. 1254(1) without in any way detracting therefrom. In short, the Supreme Court's certiorari jurisdiction over cases coming from the federal courts of appeals is plenary.

[1] The fact that a court of appeals has

ordered that its opinion not be published is no bar to Supreme Court review. See Transamerican Freight Lines v. Brada Miller Freight Systems, 423 U.S. 28, 34. Apparently the Respondent is unfamiliar with the word plenary so the definition is furnished here: PLENARY - "literally,... full, entire, complete, absolute, perfect or unqualified"

Apparently the Respondent is unfamiliar with the word Jurisdiction so the definition is furnished here: JURISDICTION: the power to hear and determine a case. 147 F.2d 759, 761.

Constitutional Provisions, Statutes Ordinances and Regulations

Constitutional Provisions, Statutes, Ordinances and Regulations are as stated in "Petition For A Writ of Certiorari" - pages 15 and 16.

Statement of the Case

Statement of the case is as stated in "Petition For A Writ of Certiorari" -

pages 16 thru 26.

Petitioner's Statement Of Response To Respondent's Brief In Opposition

This reply brief is submitted pursuant to Supreme Court Rule 22.5; 28; 33 and 34.4. Due to page limitations imposed by Rule 33 this reply brief will not cover all of the pleadings made by Respondent in the Brief in Opposition. No priority of pertinency is to be implied by the order in which Petitioner responds to the pleadings made in Respondent's Brief in Opposition. Respondent's Brief in Opposition as submitted is an assault on and an insult to the intelligence of this Court. Specifically the Respondent semantically misleads the Court in Respondent's presentation of the facts that relate to this case. One can surmise that this Court could expect more from Attorneys for the Respondent where, considering that one of the Attorneys - Leonard S. Janofsky - was a former

President of the American Bar Association.

I

Review of Respondent's

Statement Of The Case

A. False Accusation by Respondent that Petitioner Accused Magistrate James W. McMahon of Falsifying Transcript of February 1, 1983

On page 8 lines 18 thru 37 Respondent grossly misleads this Court by asserting that Petitioner filed a motion in the District Court accusing Magistrate James W. McMahon of deliberately and purposely falsifying the Transcript of February 1, 1983 (App.D1 thru D40) and that Petitioner refiled in the Court of Appeals a motion accusing Magistrate James W. McMahon of deliberately and purposely falsifying the Transcript of February 1, 1983 (App.D1 thru D40) and asking for an evidentiary hearing on this accusation. The records in the Courts below (District Court filings - Doc. #125; Doc. #126; Doc. #127; Doc. #129; Doc. #130;

Doc. #131; Doc. #132; Doc. #133; Doc. #134; Doc. #135; Doc. #136; Doc. #137; Doc. #138; Doc. #139; Doc. #140 - 9th Circuit Court of Appeals Court filings by date - June 11, 1984; June 11, 1984; June 11, 1984; June 11, 1984; June 11, 1984; June 11, 1984; June 11, 1984; June 15, 1984; June 19, 1984; July 20, 1984 as of July 3, 1984) show that this motion was never filed. Petitioner has never at any time stated or implied that Magistrate McMahon falsified this transcript. The Transcript of February 1, 1983 (App.D1 thru D40) is accurate in every detail.

B. Complaint by Respondent of Petitioner's Use of the Word "Anarchy" in District Court Pleadings

On page 8 lines 1 & 2 Respondent complains about Petitioner's use of the word "anarchy". Petitioner points out to this Court that only recently Judge Rehnquist

in a speech used the word "anarchy" in discussing this Court. Petitioner suggests that the other Justices ask him for his specific "quote".

C. Complaint by Respondent of Petitioner's Contention of Involvement of William Frenchie-Boy Smith in the Appointment of Rafeedie to the Federal Bench

On page 4 line 6 thru 14 Respondent complains about Petitioner's contention that William Frenchie-Boy Smith was closely involved in Rafeedie's appointment as a Federal Judge. For the information of the Court Frenchie-Boy Smith's relationship was not only at the Federal level but the State level. Rafeedie was appointed by President Reagan, when he was Governor of California, to the Municipal Court in 1969 and Superior Court in 1970. William Frenchie-Boy Smith states in The Bulletin of the

Federal Courts - "The Third Branch" - page 4 of June 1981 that: "In California, during President Reagan's tenure as Governor, I participated with him in judicial selections."

D. Respondent's Misleading Statement that Petitioner was Given A 30 Day Grace Period

On page 8 lines 12 thru 14 Respondent contends that Petitioner was given a grace period of more than 30 days within which Petitioner could have her action reinstated. Petitioner points out to this Court that the record (App.D60 thru D90) (App.D88 line 12 thru 14) does not mention 30 days or dismissal with prejudice.

The record shows that Rafeedie entered two orders: -

One order was unsigned with no date certain for compliance and served on the Petitioner but not filed with the Court (App.A1 thru A7).

A second order was signed with a date certain for compliance and not served on the Petitioner and filed with the Court (App.A8 thru A12).

Petitioner points out to this Court that this was a trick on the part of Rafeedie to mislead Petitioner so that Petitioner would not be able to file a timely appeal on the order since the date June 30 was exactly 30 days from the date of entry of the order and had not Petitioner been alert and gone by bus 75 miles from Port Hueneme to the file room of the District Court and located a copy of the signed order Petitioner would have been unable to file a timely appeal if Petitioner had not done so before June 30 since the law states that one must file an appeal with the District Court within 30 days from date of entry of order.

Attention of the Court is invited to (App.D50 thru D51) where attorney for the

Respondent states that Rafeedie entered two separate dismissal orders.

In signing this dismissal order on May 26, 1983 (App.A12) Rafeedie violated Local Rule 7A (App.D106 thru D107).

E. Respondent's Complaint of Petitioner's Semantic Construction of Petitioner's Pleadings in the District Court

On page 7 Respondent complains bitterly about Petitioner's conduct and semantic construction of Petitioner's pleadings. What Respondent fails to point out to the Court is that these pleadings were in response to specific issues raised by the Respondent (App.D83 line 6 thru 12). If the Court is interested in this semantic quibbling Petitioner suggests that the Court examine District Court Document #99 and #108. Petitioner points out to this Court the Respondent on three different occasions raised before the District Court the subject of Petitioner Esther C.

Monzello's "ass". These occasions were Doc. #58 page 15 lines 24-25; Doc. #99 page 19 lines 17-20; page 21 lines 6-8. In addition the subject was raised again by Respondent in Respondent's Brief in the 9th Circuit - page 22 lines 8 & 9; page 23 lines 15 & 16. Petitioner also points out that Rafeedie applies the grossest of personal insults to Petitioner when he addressed Petitioner as a "sweet lady" (App.D62 line 8). Finally, Respondent with the approval (App.D69 lines 21-23; D70 lines 2 & 3) of Rafeedie referred to Petitioner 30 times in pleadings before the Court as "frivolous" (Doc. #58 page 7 line 2; Doc. #71 page 9 line 24; Doc. #72 page 4 line 7, page 14 line 22 & 25, page 15 line 18; Doc. #78 page 8 line 1; Doc. #99 page 2 line 20 & 22, page 6 line 1 & 2 & 6, page 13 line 4 & 10 & 11, page 26 line 9 & 14; Doc. #108 page 2 line 1 & 6; Doc. #129 page 4 line 7 &10; Doc. #130 page 4 line line 12 & 15; Doc. #131 page 5

line 13) (In the Appeal Court - Appellee's Brief - page 5 lines 18 & 19; page 7 line 12; page 49 line 22; page 50 line 11). Respondent has repeated this terminology on page 3 line 32 of his Brief in Opposition.

A joke Petitioner's husband told her emphasizes the semantic accent of the word "frivolous".

> "The three oldest professions are lawyering, whoring, pimping. There was a young woman who graduated from law school. She obtained her license and went out to practice. The going was rough - not much business. Among her first clients was a pimp. Through her efforts to help him she learned a great deal about the business of pimping. Some of the girls he worked with made a great deal more than she made. The young lawyer decided she would pick up some "lucre" on the side. The pimp brought her a few clients and she was on the verge of giving up lawyering -

things were so good. One day after she finished a trick she met her pimp -

Pimp

What the hell you seem depressed. Didn't the last guy take care of you?

Lawyer

Oh, yes, the money was good.

Pimp

What the hell is the matter then?

Lawyer

He insulted me.

Pimp

How in the hell can you insult a whore?

Lawyer

He didn't call me a whore - he called me a FRIVOLOUS WHORE!!!!

The End

II

Petitioner's Response To Respondent's Argument

Due to page limitations imposed by Rule 33 Petitioner's Response to the Argument section of Respondent's Brief in Opposition will be limited. Basically Respondent's response is "legalistic dribble". Respondent's response is simply "playing with words". Choosing one of Respondent's cases to respond to namely "National Hockey League vs Metropolitan Hockey Club Inc" Petitioner concludes that Respondent is only imitating the Court in its "Order". Petitioner after reviewing "National Hockey League's Petition For A Writ of Certiorari" and "Metropolitan Hockey Club Inc.'s Brief In Opposition" and the Order issued by the Court concludes the whole process was an "intellectual sham" a "playing with words". The Order issued by the Court indicates the Judges who issued the Order live in a "dream world" far

removed from the world of actual litigation. The Court indicates the Court lacks intellectual integrity to resolve the "administrative problems" of the judicial system without infringing on the rights of litigants. The Order issued by the Court results in the "intellectual corruption" of our courts and the demoralization of our society.

Finally the records show that Respondent served an improperly noticed deposition on October 14, 1982. (Doc. #7)

Petitioner did not at any time violate the local rules of the Court or the Federal Rules of Civil Procedure and did not at any time refuse to comply with any order of the Court.

Esther C. Monzello

ESTHER C. MONZELLO
IN PROPRIA PERSONA